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In re Application of MAINGUET
U.S. Application No.: 10/542,658
PCT Application No.: PCT/FR2004/000092
Int. Filing Date: 16 January 2004
Priority Date Claimed: 21 January 2003
Attorney Docket No.: 4590-433
For: PERSON RECOGNITION SECUREMENT
METHOD AND DEVICE

DECISION

This is in response to applicant's "Petition to Revive Application Under 37 CFR §1.137(b)" filed 02 April 2008.

BACKGROUND

On 16 January 2004, applicant filed international application PCT/FR2004/000092, which claimed priority of an earlier France application filed 21 January 2003. A copy of the international application was communicated to the USPTO from the International Bureau on 12 August 2004. The thirty-month period for paying the basic national fee in the United States expired on 21 July 2005.

On 19 July 2005, applicant filed national stage papers in the United States Designated/Elected Office (DO/EO/US). The submission was accompanied by, *inter alia*, the basic national fee required by 35 U.S.C. 371(c)(1).

On 14 February 2007, the DO/EO/US mailed a Notification of Missing Requirements Under 35 U.S.C. 371 (Form PCT/DO/EO/905), which indicated that an oath or declaration in compliance with 37 CFR 1.497 must be filed.

International application PCT/FR2004/000092 became abandoned as to the United States for failure to timely respond to the Notification of Missing Requirements.

On 02 April 2008, applicant filed the present petition under 37 CFR 1.137(b).

DISCUSSION

Under 37 CFR 1.137(b), a petition requesting that an application be revived on the grounds of unintentional abandonment must be accompanied by: (1) the required reply unless

previously filed, (2) the petition fee as set forth in 37 CFR 1.17(m), (3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition was unintentional, and (4) a terminal disclaimer if the application was filed before 08 June 1995.

With regard to item (1), applicant has provided the required reply under 35 U.S.C. 371.

With regard to item (2), applicant has provided the required petition fee.

With regard to item (3), the petition states that "the entire period of delay was unintentional." This statement is interpreted as a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. If this is an incorrect interpretation in view of the rules, petitioner is required to provide a statement to that effect.

Applicant is advised that it is not apparent whether the person signing the statement of unintentional delay was in a position to have firsthand or direct knowledge of the facts and circumstances of the delay at issue. Nevertheless, such statement is being treated as having been made as the result of a reasonable inquiry into the facts and circumstances of such delay. See 37 CFR 10.18(b) and Changes to Patent Practice and Procedure, Final Rule Notice, 62 Fed. Reg. 53131, 53178 (October 10, 1997), 1203 Off. Gaz. Pat. Office 63, 103 (October 21, 1997). In the event that such an inquiry has not been made, petitioner must make such an inquiry. If such inquiry results in the discovery that it is not correct that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional, petitioner must notify the Office.

With regard to item (4), because the international application was filed after 08 June 1995, no terminal disclaimer is required.

CONCLUSION

For the reasons above, the petition under 37 CFR 1.137(b) is GRANTED.

The application has an International Filing Date under 35 U.S.C. 363 of 16 January 2004, and a date under 35 U.S.C. 371(c)(1), (c)(2), and (c)(4) of 02 April 2008.

This application is being forwarded to the United States Designated/Elected Office (DO/EO/US) for further processing in accordance with this decision.



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